



Reprinted
March 1, 2005

HOUSE BILL No. 1695

DIGEST OF HB 1695 (Updated February 28, 2005 11:12 pm - DI 113)

Citations Affected: IC 6-9; IC 36-7.

Synopsis: Retail development. Allows the Marion County city-county council to designate a special retail district if the district: (1) does not exceed 400 acres; (2) is established for the purpose of undertaking a project that involves a total capital commitment in excess of \$125,000,000; (3) the total capital investment for the project will be in excess of \$500,000,000; and (4) the project would not otherwise be accomplished through the ordinary operations of private investment. Provides that if a district is designated, an additional 1% sales tax applies to retail transactions within the district. Specifies that this additional 1% sales tax is imposed, paid, and collected in the same manner as the state sales tax. Requires the amounts received from the additional 1% sales tax to be paid monthly by the treasurer of the state to the county fiscal officer and deposited into a special fund. Allows money in the special fund to be used by the metropolitan development commission for any purpose that property tax increment could be used. Enlarges the class of political subdivisions in which a community revitalization enhancement district may be established to include all cities and towns.

Effective: July 1, 2005.

Behning

January 19, 2005, read first time and referred to Committee on Local Government.
February 17, 2005, amended, reported — Do Pass.
February 21, 2005, referred to Committee on Ways and Means pursuant to House Rule 127.
February 24, 2005, amended, reported — Do Pass.
February 28, 2005, read second time, amended, ordered engrossed.

HB 1695—LS 7539/DI 44+



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March 1, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1695

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-9-35 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]:
4 **Chapter 35. Special Retail District Incremental Gross Retail**
5 **Tax**
6 **Sec. 1. Except as otherwise provided in this chapter, the**
7 **definitions in IC 6-2.5-1 apply throughout this chapter.**
8 **Sec. 2. As used in this chapter, "fiscal body" has the meaning set**
9 **forth in IC 36-1-2-6.**
10 **Sec. 3. As used in this chapter, "fiscal officer" has the meaning**
11 **set forth in IC 36-1-2-7.**
12 **Sec. 4. As used in this chapter, "gross retail income" has the**
13 **meaning set forth in IC 6-2.5-1-5, except that the term does not**
14 **include taxes imposed under IC 6-2.5 or IC 6-9.**
15 **Sec. 5. (a) Subject to subsections (b) and (c), the fiscal body of a**
16 **county containing a consolidated city may adopt an ordinance**
17 **designating an area in the county as a special retail district.**

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(b) A special retail district designated under subsection (a) must meet the following requirements:

(1) The district may not exceed four hundred (400) acres.

(2) The district must be established for the purpose of undertaking a project, or a series of projects, that involve a total capital commitment in excess of one hundred twenty-five million dollars (\$125,000,000).

(3) The fiscal body must make a finding that:

(A) the total capital investment for the project, or series of projects, will be in excess of five hundred million dollars (\$500,000,000) at the completion of the project, or series of projects; and

(B) the project would not otherwise be accomplished through the ordinary operations of private investment because of the unique quality and scope of the project or series of projects.

(c) The fiscal body may adopt an ordinance under subsection (a) only after January 1 but before April 1 of a year.

(d) If the fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

Sec. 6. (a) If the fiscal body of a county containing a consolidated city adopts an ordinance designating a special retail district under section 5 of this chapter, a one percent (1%) incremental gross retail tax is imposed on the transactions described in section 7 of this chapter that occur within the district.

(b) The incremental gross retail tax imposed by subsection (a):

(1) takes effect July 1 following the adoption of the ordinance under section 5 of this chapter; and

(2) is in addition to any other tax imposed on the transactions described in section 7 of this chapter.

Sec. 7. (a) Except as provided in subsection (b), the incremental gross retail tax imposed by section 6 of this chapter applies to all retail transactions that occur within the special retail district designated under section 5 of this chapter.

(b) The incremental gross retail tax does not apply to a transaction to the extent that the transaction is exempt from the state gross retail tax under IC 6-2.5.

Sec. 8. (a) The incremental gross retail tax imposed by section 6 of this chapter is imposed only on the gross retail income derived from retail transactions.

(b) A person who receives goods or services in a retail

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transaction that is taxed under this chapter is liable for the incremental gross retail tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the goods or services. The retail merchant shall collect the tax as an agent for the state and the county.

(c) Except as otherwise provided in this chapter, the incremental gross retail tax shall be imposed, paid, and collected in the same manner in which the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 9. (a) The amounts received from the incremental gross retail tax shall be paid monthly by the treasurer of the state to the fiscal officer of the county containing a consolidated city upon warrants issued by the auditor of state.

(b) The amounts received by the county fiscal officer under subsection (a) shall be deposited into a special fund.

(c) Money in the special fund may be used by the metropolitan development commission for any purpose for which property taxes allocated to a redevelopment district under IC 36-7-15.1-26 may be expended, including the payment of debt service or lease rentals and the establishment and maintenance of a debt service reserve.

Sec. 10. (a) Subject to subsection (c), the fiscal body of a county containing a consolidated city may after January 1 but before April 1 of a year adopt an ordinance to rescind the designation of a special retail district.

(b) If the fiscal body adopts an ordinance under subsection (a):

(1) the special retail district is abolished July 1 following the adoption of the ordinance; and

(2) the incremental gross retail tax is rescinded effective July 1 following the adoption of the ordinance.

(c) The fiscal body may not adopt an ordinance rescinding the designation of a district if there are bonds outstanding or leases or other obligations payable from the incremental gross retail tax under this chapter.

(d) If the fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

SECTION 2. IC 36-7-13-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.1. (a) This section applies to a

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(1) first class city; or

(2) second class city: **municipality**.

(b) After approval by ordinance or resolution of the legislative body of a city described in subsection (a), **municipality**, the executive of the **city municipality** may submit an application to an advisory commission on industrial development requesting that one (1) area within the **city municipality** be designated as a district under section 12.1 of this chapter. However, the total number of districts designated in a **city municipality** under this chapter after June 30, 2003, (excluding districts designated before July 1, 2003) may not exceed one (1).

SECTION 3. IC 36-7-13-12.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12.1. (a) If the executive of a **city described in section 10.1(a) of this chapter municipality** has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it finds the following:

(1) That the redevelopment of the area in the district will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the area; or

(C) retain or expand a significant business enterprise within the area.

(2) That there are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or ineffective utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(G) Lack of development or cessation of growth.

(H) Deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings.

(I) Other factors that have impaired values or prevent a normal development of property or use of property.

(b) To address the obstacles identified in subsection (a)(2), the **city municipality** may make expenditures for:

(1) the acquisition of land;

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- (2) interests in land;
- (3) site improvements;
- (4) infrastructure improvements;
- (5) buildings;
- (6) structures;
- (7) rehabilitation, renovation, and enlargement of buildings and structures;
- (8) machinery;
- (9) equipment;
- (10) furnishings;
- (11) facilities;
- (12) administration expenses associated with such a project;
- (13) operating expenses; or
- (14) substance removal or remedial action to the area.

(c) In addition to the findings described in subsection (a), an advisory commission must also find that the ~~city described in section 10.1(a) of this chapter~~ **municipality** has expended, appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars (\$250,000) for purposes of addressing the redevelopment obstacles described in subsection (a)(2).

(d) The advisory commission shall designate the duration of the district. However, a district must terminate not later than fifteen (15) years after the income tax incremental amount or gross retail incremental amount is first allocated to the district under this chapter.

(e) Upon adoption of a resolution designating a district, the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.

(f) When considering a resolution, the budget committee and the budget agency must make the following findings:

- (1) The area to be designated as a district meets the conditions necessary for designation as a district.
- (2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(g) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the resolution is approved under this section.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1695, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 18, delete "will".

Page 3, line 19, delete "investment" and insert "**commitment**".

Page 3, line 19, after "hundred" insert "**twenty-five**".

Page 3, line 20, delete "(\$100,000,000)." and insert "**(\$125,000,000), and the commission and the board must determine that:**

(1) the total capital investment for the project, or series of projects, will be in excess of five hundred million dollars (\$500,000,000) at the completion of the project, or series of projects; and

(2) the project would not otherwise be accomplished through the ordinary operations of private investment because of the unique quality and scope of the project or series of projects."

and when so amended that said bill do pass.

(Reference is to HB 1695 as introduced.)

HINKLE, Chair

Committee Vote: yeas 10, nays 1.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1695, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:
 "SECTION 1. IC 6-9-35 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 35. Special Retail District Incremental Gross Retail Tax

Sec. 1. Except as otherwise provided in this chapter, the definitions in IC 6-2.5-1 apply throughout this chapter.

Sec. 2. As used in this chapter, "fiscal body" has the meaning set forth in IC 36-1-2-6.

Sec. 3. As used in this chapter, "fiscal officer" has the meaning set forth in IC 36-1-2-7.

Sec. 4. As used in this chapter, "gross retail income" has the meaning set forth in IC 6-2.5-1-5, except that the term does not include taxes imposed under IC 6-2.5 or IC 6-9.

Sec. 5. (a) Subject to subsections (b) and (c), the fiscal body of a county containing a consolidated city may adopt an ordinance designating an area in the county as a special retail district.

(b) A special retail district designated under subsection (a) must meet the following requirements:

- (1)** The district may not exceed four hundred (400) acres.
- (2)** The district must be established for the purpose of undertaking a project, or a series of projects, that involve a total capital commitment in excess of one hundred twenty-five million dollars (\$125,000,000).
- (3)** The fiscal body must make a finding that:
 - (A)** the total capital investment for the project, or series of projects, will be in excess of five hundred million dollars (\$500,000,000) at the completion of the project, or series of projects; and
 - (B)** the project would not otherwise be accomplished through the ordinary operations of private investment because of the unique quality and scope of the project or series of projects.

(c) The fiscal body may adopt an ordinance under subsection (a) only after January 1 but before April 1 of a year.

(d) If the fiscal body adopts an ordinance under subsection (a),

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it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

Sec. 6. (a) If the fiscal body of a county containing a consolidated city adopts an ordinance designating a special retail district under section 5 of this chapter, a one percent (1%) incremental gross retail tax is imposed on the transactions described in section 7 of this chapter that occur within the district.

(b) The incremental gross retail tax imposed by subsection (a):

(1) takes effect July 1 following the adoption of the ordinance under section 5 of this chapter; and

(2) is in addition to any other tax imposed on the transactions described in section 7 of this chapter.

Sec. 7. (a) Except as provided in subsection (b), the incremental gross retail tax imposed by section 6 of this chapter applies to all retail transactions that occur within the special retail district designated under section 5 of this chapter.

(b) The incremental gross retail tax does not apply to a transaction to the extent that the transaction is exempt from the state gross retail tax under IC 6-2.5.

Sec. 8. (a) The incremental gross retail tax imposed by section 6 of this chapter is imposed only on the gross retail income derived from retail transactions.

(b) A person who receives goods or services in a retail transaction that is taxed under this chapter is liable for the incremental gross retail tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the goods or services. The retail merchant shall collect the tax as an agent for the state and the county.

(c) Except as otherwise provided in this chapter, the incremental gross retail tax shall be imposed, paid, and collected in the same manner in which the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 9. (a) The amounts received from the incremental gross retail tax shall be paid monthly by the treasurer of the state to the fiscal officer of the county containing a consolidated city upon warrants issued by the auditor of state.

(b) The amounts received by the county fiscal officer under subsection (a) shall be deposited into a special fund.

(c) Money in the special fund may be used by the metropolitan

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development commission for any purpose for which property taxes allocated to a redevelopment district under IC 36-7-15.1-26 may be expended, including the payment of debt service or lease rentals and the establishment and maintenance of a debt service reserve.

Sec. 10. (a) Subject to subsection (c), the fiscal body of a county containing a consolidated city may after January 1 but before April 1 of a year adopt an ordinance to rescind the designation of a special retail district.

(b) If the fiscal body adopts an ordinance under subsection (a):

(1) the special retail district is abolished July 1 following the adoption of the ordinance; and

(2) the incremental gross retail tax is rescinded effective July 1 following the adoption of the ordinance.

(c) The fiscal body may not adopt an ordinance rescinding the designation of a district if there are bonds outstanding or leases or other obligations payable from the incremental gross retail tax under this chapter.

(d) If the fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue."

Delete pages 2 through 6.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1695 as printed February 18, 2005.)

ESPICH, Chair

Committee Vote: yeas 18, nays 4.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1695 be amended to read as follows:

Page 3, after line 39, begin a new paragraph and insert:

"SECTION 2. IC 36-7-13-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.1. (a) This section applies to a

~~(1) first class city; or~~

~~(2) second class city;~~ **municipality.**

(b) After approval by ordinance or resolution of the legislative body of a ~~city described in subsection (a);~~ **municipality**, the executive of the ~~city~~ **municipality** may submit an application to an advisory commission on industrial development requesting that one (1) area within the ~~city~~ **municipality** be designated as a district under section 12.1 of this chapter. However, the total number of districts designated in a ~~city~~ **municipality** under this chapter after June 30, 2003, (excluding districts designated before July 1, 2003) may not exceed one (1).

SECTION 3. IC 36-7-13-12.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12.1. (a) If the executive of a ~~city described in section 10.1(a) of this chapter~~ **municipality** has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it finds the following:

- (1) That the redevelopment of the area in the district will:
 - (A) promote significant opportunities for the gainful employment of its citizens;
 - (B) attract a major new business enterprise to the area; or
 - (C) retain or expand a significant business enterprise within the area.
- (2) That there are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings.
 - (B) Aging infrastructure or ineffective utility services.
 - (C) Utility relocation requirements.
 - (D) Transportation or access problems.
 - (E) Topographical obstacles to redevelopment.
 - (F) Environmental contamination.
 - (G) Lack of development or cessation of growth.



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(H) Deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings.

(I) Other factors that have impaired values or prevent a normal development of property or use of property.

(b) To address the obstacles identified in subsection (a)(2), the **city municipality** may make expenditures for:

- (1) the acquisition of land;
- (2) interests in land;
- (3) site improvements;
- (4) infrastructure improvements;
- (5) buildings;
- (6) structures;
- (7) rehabilitation, renovation, and enlargement of buildings and structures;
- (8) machinery;
- (9) equipment;
- (10) furnishings;
- (11) facilities;
- (12) administration expenses associated with such a project;
- (13) operating expenses; or
- (14) substance removal or remedial action to the area.

(c) In addition to the findings described in subsection (a), an advisory commission must also find that the **city described in section 10.1(a) of this chapter municipality** has expended, appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars (\$250,000) for purposes of addressing the redevelopment obstacles described in subsection (a)(2).

(d) The advisory commission shall designate the duration of the district. However, a district must terminate not later than fifteen (15) years after the income tax incremental amount or gross retail incremental amount is first allocated to the district under this chapter.

(e) Upon adoption of a resolution designating a district, the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.

(f) When considering a resolution, the budget committee and the budget agency must make the following findings:

- (1) The area to be designated as a district meets the conditions necessary for designation as a district.

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(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(g) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the resolution is approved under this section."

Renumber all SECTIONS consecutively.

(Reference is to HB 1695 as printed February 25, 2005.)

FRIEND

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